

trustmediation

~ not-for-profit dispute resolution ~

Tel: 0207 353 3237 Fax: 0207 583 9521

www.trustmediation.org.uk info@trustmediation.org.uk



Trust Mediation Limited
218 Strand
London
WC2R 1AT

Our Reference:

Your reference:

Dear

POTENTIAL MEDIATION - KEY INFORMATION

Thank you for your enquiry. On behalf of Sir Henry Brooke and the Board of Trust Mediation Limited, I am pleased to present our service to you. I am the Registrar and will be your point of contact should you decide to proceed. My direct telephone number is 0207 353 3237. Please do not hesitate to contact me if you would like more information or have any questions.

Trust Mediation Limited

Trust Mediation is a not-for-profit organisation run by voluntary directors under the supervision of an Advisory Council. Its objective is to make eminent and skilled personal injury mediators available to assist in resolving such claims. It was established in 2007 by Sir Henry and his colleagues following a series of meetings with representatives from across the industry, many of whom now sit on the Advisory Council. It is neutral and national, and runs on fixed fees.

How much?

Trust Mediation operates a fixed price menu. The mediator is paid £1,000 (plus VAT, where appropriate). We charge £150 to administer the process and to cover our costs. The total cost for the mediation is therefore £1,150* together with the relevant VAT.

Preparation, reading, the mediator's travel, and the mediation of up to four hours are included in the fee. The venue for the mediation, and any cost for the venue and refreshments, is the responsibility of the parties (see below). There are no hidden extras.

These fees are usually paid in advance by the Defendant where liability is not disputed but in many cases the parties agree that they will each pay half in advance (£575 plus any VAT) and then deal with the costs of the mediation as part of the claim. The parties are free to agree such terms on costs, as between themselves, as they think appropriate. The Mediation Agreement, however, provides for a presumption that, unless otherwise agreed or ordered, mediation fees and the parties' legal costs and expenses shall be costs in the case. Parties and their lawyers should consider what costs arrangements are suitable (whether the case settles, or whether it does not) prior to the mediation.

*£1,150 is the fee for a 4 hour mediation. If the parties and the mediator agree to extend the mediation beyond 4 hours there will be an additional fee based on a rate of £150 per hour, together with the relevant VAT.

Venue, and costs of venue

The venue for the mediation is the responsibility of the parties. It is often possible for the mediation to take place at your offices or those of your opponent. The mediator will travel to you. Where it is desirable to use a neutral venue, we can help with information about venues but you (or your opponents) will need to book and pay for the venue. We will not be involved in that except to ensure that your mediator has appropriate

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directions. Sometimes we may be able to offer mediation at the home offices or chambers of our mediators for no cost. Do contact our friendly Registrar if you would like any help on this or have any query about venue.

These costs details extracted from **Trust Mediation Information Letter** and the **Mediation Agreement**.

Who and where?

The mediators available include (in alphabetical order):

Name	Background	Home base(s) and main areas of operation
Sir Henry Brooke	Former Lord Justice of Appeal	London & Taunton
Martin Cockx	Claimant Solicitor	Manchester
Jonathan Dingle	Barrister (Claimant & Defendant)	London, Taunton, Leeds & Manchester
Judith Kelbie	Solicitor (Claimant & Defendant)	London, Bristol, Leeds, Birmingham & Plymouth
Frances McCarthy	Claimant Solicitor	London
Tim Wallis	Personal injury and insurance Solicitor	London, Newcastle, Carlisle, Leeds, & Manchester.

We would be glad to provide full CVs for any or all of these mediators. We will also in due course carry out a conflict check to ensure appropriate neutrality.

What do you need to do?

To get your mediation off the ground, you will need to:

- agree with your opponent to mediate;
- propose a mediator to your opponent;
- speak to, or email, me to check the mediator's availability;
- agree a time and place for the mediation with your opponent; and
- let me know what you want to do.

How we can help at this stage

I can provide you with a model mediation offer letter which you may wish to adapt for your own purposes. I can also, should you wish, speak to your opponent to explore options although experience shows that it is usually best if you secure your opponent's agreement in advance of me calling.

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I can also help you choose a mediator and if necessary suggest dates and venues. I cannot, however, discuss the merits or issues in the dispute.

What happens then?

Once you have an agreed date, place, and mediator, then I will enter the mediation into the diary as a booking and confirm this to you in writing. Fee liability begins at this point. I will send you a fee note and this must be paid before the mediation begins - unless I agree with you some other arrangement. .

I will also send you a copy of the Mediation Agreement which will be signed by you and your opponent, as well as by the mediator before the mediation begins. This will be accompanied by a copy of the Trust Mediation Rules which will apply under the Mediation Agreement.

We suggest that you read these with your client as they set out the procedure for the day, and key points about confidentiality, privilege, and the mediator's immunity. I am always happy to answer any questions about the Rules. They are not complex and are designed simply to ensure fairness on the day.

What if the mediation is cancelled?

Once I have confirmed the mediation with you and sent the fee note, the mediator's diary is dedicated to you and, with three weeks or less to go, there will be a fee payable in any event. We have discounted these as far as possible to reflect our commitment to settlement: they are set out below:

Date Cancelled	Mediator's Fee*	Admin Fee	Total Payable*
More than 21 days ahead (calendar)	£ Nil	£ Nil	£Nil
15 to 21 days	£200	£100	£300
8 to 14 days	£350	£100	£450
3 to 7 days	£500	£150	£650
1 to 2 days	£650	£150	£800

*VAT, where appropriate, is payable in addition.

What will need to be prepared?

Apart from arranging any refreshments at the venue and reserving rooms, if these fall to you to do, then the other matters to attend to will be:

- (1) An agreed Mediation Bundle, to be with the mediator at least two clear working days before the mediation in normal circumstances: this need not be paginated (although it often helps) but should ordinarily contain:

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- (a) a summary of the case from the perspective of both parties (this can be in one agreed document or by individual documents - we suggest that these are no longer than four pages);
 - (b) any pleadings if the matter is before the court;
 - (c) any schedules and counter schedules, if relevant;
 - (d) any witness statements or summaries of relevance;
 - (e) any expert reports of relevance;
 - (f) any medical records or other documents of relevance;
 - (g) any plans, photographs or media of relevance;
 - (h) details of any offers to settle;
 - (i) details of costs to date and to trial if the matter does not settle (these can be non-binding estimates or schedules); and
 - (j) anything else, from case law to precedents, that you would like the mediator to have read in advance.
- (2) Briefing your client and ensuring that someone with full authority to settle will be able to attend the mediation (this usually means the Claimant or Litigation Friend, and an insurer unless delegated authority has been provided). Experience shows that much of the benefit of a mediation can be lost if the insurer is not present to listen to the matters as they unfold - being on the end of a telephone does not offer the same immediacy and can make changes in perceptions difficult to convey.
- (3) Letting me know if you or your client has any special needs, or access restrictions, that may affect the logistics of the day. You will need to arrange for appropriate interpreters or signers if these are relevant.
- (4) Letting me know at least two days before the mediation who is attending: you will need to get your opponent's agreement if you intend to bring someone who is not a party, client, or professional adviser to the mediation because of the confidential nature of the day.

In summary

I hope that this does not feel too complicated - mediation is very flexible and unlike the courts or arbitration, focussed on the needs of the users. There are, however, some things to think about and I have put these in right at the start so you can be clear what is needed.

I can arrange your mediation for you as quickly as you want (providing your opponent agrees). While we prefer to book at least three to four weeks in advance we can move much more swiftly if you need - and certainly can usually help at very short of notice if everyone is willing. Just ask!

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Please do come back to me with any questions or let me know whose CVs you would like.

With kind regards,

Yours sincerely,

Registrar, Trust Mediation
0207 353 3237